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SIPDIS

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SUBJECT: FORCED AND CHILD LABOR REPORT - MALAYSIA

REF: REF: STATE 43120 - INSTRUCTIONS

Introduction

¶1. Embassy sources have reported incidents of forced labor in Malaysia's garment industry, and forced labor and exploitative child labor in the palm oil sector. We received corroborating reports from multiple sources for most information, but Embassy officers have not had the opportunity to conduct first-hand verification of the reports. Embassy sources do not have credible estimates of the extent of forced labor and exploitative child labor in the garment and palm oil sectors, and determining the extent of such problems would require further research. This cable responds to the Department of Labor's request for information, reftel.

Garments

¶2. Goods: Garments.

¶A. Type of exploitation: Forced labor (debt-bondage, contract switching, and passport confiscation).

¶B. Sources of information and years: Post gathered all information during the last 12 months from a credible local NGO, the Malaysian Trade Union Congress (MTUC), a credible international NGO, the government-sponsored national human rights commission (SUHAKAM), interviews with migrant workers, and credible journalists. Most of the information was reported by multiple sources.

¶C. Narrative: All sources agree some laborers working in garment factories work in conditions of forced labor, as defined reftel. The majority of foreign laborers, both men and women, are from regional countries including Thailand, Vietnam, Indonesia, the Philippines, and Bangladesh. Some Malaysians from rural areas also reportedly are subject to forced labor in garment factories. Debt-bondage, contract substitution, passport confiscation were the most common catalysts for forced labor. In some cases, sources report that employers deny workers the freedom to leave, forcing them to live and work on the company's premises.

Most sources informed us that "agents," both officially licensed and unlicensed, recruited some workers with promises of high paying jobs, later unfulfilled. Some migrant workers signed contracts in their home countries. Upon arrival, some employers required workers to sign new contracts, which advantaged the employer and substantially reduced promised salaries and/or required workers to work longer hours. Debt-bondage is a common factor in such cases. However, in some cases workers accumulated more debt because they had access only to company stores for necessities such as food

and housing. In one documented case, Vietnamese working in a Penang clothing factory that which produces designer clothing received 8.90 to 30 ringgit (\$2.75 - \$9.40) net pay for two weeks labor after various deductions from their salaries.

Sources also noted that in some cases, workers are not free to leave the factories' premises. In such instances, employers sometimes locked workers inside their quarters, located on the factory's compound, to prevent workers from leaving. Also, passports were confiscated and employers threaten workers that, if they left, the company would report them to Immigration and the workers would be detained as illegal migrants.

¶D. Incidence: Sources do not have credible estimates on the number of persons working in conditions of forced labor, or the number of factories using forced labor.

Palm Oil

¶3. Goods: Palm oil.

¶A. Type of exploitation: Forced labor (debt-bondage, contract switching, and passport confiscation) and child labor (family debt-bondage).

¶B. Sources of information and years: Post gathered all information during the last 18 months from the Malaysian Trade Union Congress (MTUC), credible international organizations, and credible journalists. Most of the information was reported by multiple sources.

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¶C. Narrative: We do not have credible estimates of the number of palm oil plantation employees working in conditions of forced labor. Sources stated that some plantation workers experienced debt-bondage, and some plantations utilize child labor. Migrant workers from Indonesia, the Philippines, and Bangladesh, and ethnic Indian Malaysians constitute the largest groups working on plantations. According to sources, workers on plantations using forced labor include men, women, and children.

A local newspaper described how ethnic Indian Malaysian families become subject to forced labor on palm oil plantations. A family's original debt most often occurs when a person begins employment on a smaller plantation. These small plantations pay workers with coupons rather than cash. The coupons are good only at the company store and traded for essentials. They are not enough to sustain a worker and his family for the entire month and debt begins to grow. Sources told us when a worker owes about 10,000 ringgit (about \$3,125), the "debt" is sold to a larger plantation. As the debt grows, other family members, if they are in Malaysia, may be forced to work in an attempt to reduce the debt. Eventually, in such cases, the entire family, including children, could be forced to work. Plantations using forced labor may continue selling the debt to larger plantations and both families and workers could lose their freedom of movement.

Some plantations are situated in isolated locations. Often, company stores are the only source of necessities available to workers, which adds to their debt. Some sources report workers physically abused for attempting to leave a plantation. Reports indicate that some workers do not leave their plantations for several years at a time.

¶D. Incidence: Sources did not have credible estimates of the number of persons affected by conditions of forced labor and exploitative child labor on palm oil plantations. Sources, however, expressed concern regarding the conditions on palm oil plantations that could lend themselves to potential abuse.

Efforts to Combat Forced Labor and Child Labor

¶4. A government official from the Ministry of Human Resources, contacted for the purposes of this report, stated that the government of Malaysia (GOM) does not believe forced labor to be a significant problem. The GOM does acknowledge that underpayment of wages and working excessive hours does occur. The official stated that the GOM normally launches an investigation only after receipt of a formal complaint. A respected journalist noted that the government has yet to investigate a case of alleged forced labor at a palm oil plantation in the state of Negeri Sembilan. The victims, assisted by local NGOs, first lodged a formal complaint in January 2007. Ishak Mohamed, Director of Immigration Enforcement, publicly warned employers in January 2008 they could be charged under Malaysia's Anti-Trafficking in Persons Act if they abused employees.

¶5. The government-sanctioned human rights body SUHAKAM monitors and reports on labor conditions and exploitation. SUHAKAM highlighted some of the labor issues existing in Malaysia in its Human Rights Report for 2007, released May ¶2008. The report also included recommendations for addressing labor exploitation, including adopting the principles of the International Labour Office (ILO) Declaration on Fundamental Rights and Principles at Work and the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The MTUC and Bar Council use existing Malaysian labor laws to file labor claims for victims of forced labor. Other local NGOs, such as Tenaganita, provide counseling and lobby GOM for better protection against forced labor.

SHEAR